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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,468	01/06/2004	Stephan Poulin	87367.1900	2347
7590	01/12/2005			EXAMINER CONLEY, FREDRICK C
BAKER & HOSTETLER LLP Suite 1100 Washington Square 1050 Connecticut Avenue, N.W. Washington, DC 20036			ART UNIT 3673	PAPER NUMBER
DATE MAILED: 01/12/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/751,468	POULIN ET AL.
	Examiner FREDRICK C CONLEY	Art Unit 3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on _____.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-19 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
 5) Claim(s) ____ is/are allowed.
 6) Claim(s) 1,8,15,16 and 19 is/are rejected.
 7) Claim(s) 2-7,9-14,17 and 18 is/are objected to.
 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 6/8/04.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

Claim Objections

Claim 8 recites the limitation "the base frame". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 8, 15-16, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 6,389,622 to Her et al.

Claim 1, Her discloses a side rail for mounting onto a patient support assembly, the patient support assembly having a longitudinal x-axis, a transversal y-axis and a vertical z-axis, said axes being mutually orthogonal to each other, the x-axis extending longitudinally along the patient support assembly, from a front portion of the assembly to an opposite rear portion thereof, the y-axis extending transversally across the patient support assembly, from a left side portion of the assembly to an opposite right side portion thereof, and the z-axis extending vertically along the patient support assembly, from a bottom portion of the assembly to an opposite top portion thereof, the side rail extending substantially along the x-axis of the patient support assembly, the side rail being operatively mountable onto a corresponding side portion of the patient support assembly, the side rail comprising:

a first support bar having upper and lower ends, the lower end of the first support bar being pivotally mountable to said corresponding side portion of the patient support assembly (fig. 7);

a second support bar having upper and lower ends, the lower end of the second support bar being pivotally mountable to said corresponding side portion of the patient support assembly (fig. 7), and

at least one cross bar (24,25) having first and second ends pivotally connected to the first and second support bars respectively, the side rail being operable between a raised configuration where the at least one cross bar is above a segment of the patient support assembly for preventing egress of a patient from said assembly, and a lowered configuration where said at least one cross bar is below said segment of the patient support assembly for allowing egress of the patient from the assembly, wherein the support bars and the at least one cross bar of the side rail are substantially positioned within a same vertical plane, being substantially parallel to the corresponding side portion of the patient support assembly, and wherein the first and second support bars are rotatable with respect to said corresponding side portion about respective axes being parallel to the y-axis, and the first and second ends of the at least one cross bar are rotatable with respect to the support bars about respective axes being parallel to the y-axis, so that the side rail be operated between the raised and lowered configurations along said same vertical plane and so that the side rail be collapsible in the lowered configuration, within said same vertical plane (fig. 8).

Claim 8, Her discloses a hospital bed having a longitudinal x-axis, a transversal y-axis and a vertical z-axis, said axes being mutually orthogonal to each other, the x-axis extending longitudinally along the hospital bed, from a front portion of the bed to an opposite rear portion thereof, the y-axis extending transversally across the hospital bed, from a left side portion of the bed to an opposite right side portion thereof, and the z-axis extending vertically along the hospital bed, from a bottom portion of the bed to an opposite top portion thereof, the hospital bed comprising:

a base structure 20 extending substantially along the x-axis of the hospital bed, the base structure being movable along at least one of said axes;

a patient support platform also extending substantially along the x-axis of the hospital bed, the patient support platform 21 being operatively connected onto the base structure for receiving a patient thereon and having sections movable about at least one of said axes for assuming different configurations, and

at least one side rail also extending substantially along the x-axis of the hospital bed, each side rail being operatively mounted onto a corresponding side portion of the hospital bed, each side rail comprising:

a first support bar having upper and lower ends, the lower end of the first support bar being pivotally mounted to said corresponding side portion of the hospital bed (fig. 7);

a second support bar having upper and lower ends, the lower end of the second support bar being pivotally mounted to said corresponding side portion of the hospital bed; and

at least one cross bar (24,25) having first and second ends pivotally connected to the first and second support bars respectively, each side rail being operable between a raised configuration where the at least one cross bar is above a segment of the patient support platform for preventing egress of the patient from said platform, and a lowered configuration where said at least one cross bar is below said segment of the patient support platform for allowing egress of the patient from the platform;

wherein the support bars and the at least one cross bar of each side rail are substantially positioned within a same vertical plane, being substantially parallel to the corresponding side portion of the hospital bed, and wherein the first and second support bars are rotatable with respect to said corresponding side portion about respective axes being parallel to the y-axis, and the first and second ends of the at least one cross bar are rotatable with respect to the support bars about respective axes being parallel to the y-axis, so that each side rail be operated between the raised and lowered configurations along said same vertical plane and so that said each side rail be collapsible in the lowered configuration, within said same vertical plane (fig. 8).

Claim 15, wherein said at least one side rail comprises first and second side rails, the first side rail being operatively connected onto the left side portion of the hospital bed, and the second side rail being operatively connected onto the right side portion of the hospital bed (fig. 6).

Claim 16, wherein said at least one side rail comprises first and second pairs of side rails, the first pair of side rails being operatively connected onto the left side portion of the hospital bed, and the second pair of side rails being operatively connected onto the right side portion of the hospital bed, each pair of side rails comprising first and second side rails, the first support bar of each of the first and second side rails being positioned substantially at a midpoint area along the bed and a constant distance being maintained between the first support bars of said first and second side rails when in the raised configuration, irrespectively of configuration assumed by the patient support platform (fig. 6).

Claim 19, Her discloses a kit for assembling a side rail for mounting onto a patient support assembly having a longitudinal x-axis, a transversal y-axis and a vertical z-axis, said axes being mutually orthogonal to each other, the x-axis extending longitudinally along the patient support assembly, from a front portion of the assembly to an opposite rear portion thereof, the y-axis extending transversally across the patient support assembly, from a left side portion of the assembly to an opposite right side portion thereof, and the z-axis extending vertically along the patient support assembly, from a bottom portion of the assembly to an opposite top portion thereof, the kit comprising:

a first support bar having upper and lower ends, the lower end of the first support bar being pivotally mountable to said corresponding side portion of the patient support assembly (fig. 7),

a second support bar having upper and lower ends, the lower end of

the second suppod bar being pivotally mountable to said corresponding side portion of the patient support assembly (fig. 7); and

at least one cross bar (24,25) having first and second ends pivotally connectable to the first and second support bars respectively, once assembled, the side rail extending substantially along the x-axis of the patient support assembly, the side rail being operatively mounted onto a corresponding side portion of the patient support assembly and being operable between a raised configuration where the at least one cross bar is above a segment of the patient support assembly for preventing egress of a patient from said assembly, and a lowered configuration where said at least one cross bar is below said segment of the patient support assembly for allowing egress of the patient from the assembly, wherein the support bars and the at least one cross bar of each side rail are substantially positioned within a same vertical plane, being substantially parallel to the corresponding side portion of the patient support assembly, and wherein the first and second support bars are rotatable with respect to said corresponding side portion about respective axes being parallel to the y-axis, and the first and second ends of the at least one cross bar are rotatable with respect to the support bars about respective axes being parallel to the y-axis, so that the side rail be operated between the raised and lowered configurations along said same vertical plane and so that the side rail be collapsible in the lowered configuration, within said same vertical plane (fig. 8).

Allowable Subject Matter

Claims 1-7, 9-14, 17-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C CONLEY whose telephone number is 703-308-7468. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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